IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Writ Petition No. 963 of 1990

O.N. Sharma,
Indian Inhabitant, residing at
C/o. P.N. Sharma, 32 A,
Vithal Nivas, 5th Floor,
Jacob Circle, Bombay- 400 011. .. Petitioner.

V/s.

1. The Director,
   Narcotics Control Bureau,
   Ranjit Hotel, 5th Floor,
   Maharana Ranjit Singh Marg,
   New Delhi

2. Commissioner of Police,
   Greater Bombay Police Head
   Quarters, Crawford Market,
   Bombay - 400 001.

3. Senior Inspector of Police,
   Dongri Police Station,
   Bombay 400 009

4. The State of Maharashtra

5. The Union of India .. Respondents

Mr. Amey Tamhane with Ms. Seema Sarnaik for the Petitioner.
Mr. Rajiv Mane, AGP. for the Respondent Nos. 2 to 4.
None appears for the Respondent Nos. 1 and 5, though served.

CORAM : S. RADHAKRISHNAN &
S.A. BOBDE, JJ.
DATED : 26.8.2004.

ORAL JUDGMENT (PER - S. RADHAKRISHNAN, J.):-

1. By this Petition, the Petitioner, who was an informer with regard to seizure of 220 Kg. of heroin on 17.9.1987, is seeking a reward for furnishing the information. Based on the above information, on the very same date, i.e. 17.9.1987, the Respondents were able to seize 220 kg. of heroin, which was carried in a truck bearing no. ARC-659.

2. It appears that the Petitioner, who was working in a hotel at Dana Bunder, Mumbai informed one Mr. T.S. Loni, Police Sub Inspector, Dongri Police Station, that heroin was lying in a truck bearing no. ARC-659, somewhere near Batra petrol pump, Bhiwandi, Dist. Thane. It is the case of the Petitioner that on the basis of the aforesaid information, on the very same date, the Respondents were able to trace the said truck, bearing no. ARC-659 and were able to seize 220 kg. of heroin on the very same date. Thereafter, the Petitioner has been repeatedly approaching the Respondents by addressing various letters for award of reward as per the rules framed under Section 65 of the Narcotic Drugs and Psychotropic Substances Act, 1985. It appears that under the said rules framed under the Narcotic Drugs and Psychotropic Substances Act, those who inform the Police with regard to confiscation, which results, in a successful seizure of various narcotics, such persons are entitled to a reward, as per the schedule prescribed under the said rules. After the Petitioner had sent various letters, the Deputy Director of Respondent No. 1 Narcotics Control Bureau informed the Petitioner by letter dated 26.4.1988 that the claim of the Petitioner was under examination. Thereafter again some more reminders were sent. By a letter dated 13.9.1988, the Deputy Director of the said Narcotics

Control Bureau informed the Petitioner that necessary action is being taken with regard to the Petitioner's

claim. The Petitioner sent further reminders with regard to the said reward. Thereafter the Senior Inspector of Police, Dongri Police Station issued a certificate on 20.1.1990, very categorically certifying that the Petitioner to be the informant in connection with seizure of heroin being 220 kg., and the Criminal Case has been registered in Dongri Police Station as C.R.No. 16/87. Ultimately, as the Respondents had failed to pay the prescribed reward as per the aforesaid rules, the Petitioner has approached this Court by filing this Petition.

3. We have heard both the learned counsel for the Petitioner and the learned Assistant Government Pleader for the Respondent Nos. 2, 3 and 4 and we have perused the Affidavit-in-Reply filed on behalf of the Respondent Nos. 2, 3 and 4 dated 9.4.1990. In the said Affidavit-in-Reply in paragraph no. 2, the Respondent No. 3 has very categorically admits that the Petitioner had given the information on 17.9.1987 in respect of the location of the truck bearing No. ARC-659, which was carrying a huge quantity of heroin. In the aforesaid Affidavit, it is also admitted that on the very same date, the said 220 kg. of heroin was seized from the above truck and the criminal case was also registered.

4. The learned Assistant Government Pleader pointed out that Section 65 in Narcotic Drugs and Psychotropic

Substances Act, 1985 has been deleted by Amending Act being 2 of 1989 with effect from 29.5.1989 and sought to contend that as the aforesaid Section which empowered the State and Central Government to frame rules with regard to disposal of articles or things confiscated under the Act, as well as rewards to be paid to the informers and other persons out of the proceeds of fines and confiscations under the Act, therefore, the learned Assistant Government Pleader submitted that as the said Section 65 has already been deleted and in view thereof, the rules, which empowered the Government to grant reward also stood deleted, hence, the Petitioner is not entitled to any reward. The other argument by the learned Assistant Government Pleader for the Respondents is that the Respondents did not recover the said heroin on the basis of information given by the Petitioner, as the Petitioner did not know where exactly the narcotics were hidden in the truck. On interrogating one Mr. Vinod Kumar Sharma, who was already in Police custody, and he pointed out the cavity in the cabin of the said truck where the said heroin was found concealed.

5. After having heard both the learned counsel, for the parties, it is explicitly clear from the record that the

Petitioner was the informant with regard to the seizure of 220 kg of heroin, as clearly mentioned in the Certificate issued by the Respondent No.3 dated 29.1.1990. The letter dated 13/14-9.1988 issued by

Deputy Director, Narcotics Control Bureau also refers to the seizure of 220 kg. of heroin on 17.9.1987, being CR No. 16 registered by Dongri Police Station. Therefore, the contention of the learned Assistant Government Pleader that the seizure took place in pursuance of the interrogation of the said Vinod Kumar Sharma, as mentioned the said Affidavit, does not find any mention in any record. What we are concerned in this case is the information which related to the seizure of the large quantity of heroin. The records clearly indicate that the information was furnished by the Petitioner and accordingly, the Dongri Police Station seems to have acted and finally seized the aforesaid large quantity of heroin, hence the contention that the seizure was as a result of interrogation of Vinod Kumar Sharma cannot be sustained.

6. As far as the contention that in view of the Amending Act No. 2 of 1989, the aforesaid Section 65 has been deleted with effect from 29.5.1989, we are concerned, with the relevant date i.e. 17.9.1987, i.e. the date on which the said information was furnished and seizure also took place, at which date, the said Section

65 was very much a part of the Narcotic Drugs and Psychotropic Substances Act, 1985 and rules framed thereunder, were also very much in force. In view thereof, the said rules would apply to the instant case.

The Petitioner would be entitled to the reward as per the said rules.

7. Under the aforesaid facts and circumstances, we direct the Respondents to pay the Petitioner the permissible reward as per the then existing rules framed under Section 65 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and pay the same within a period of three months from today. Rule is made absolute in the above terms.

8. Parties to act on an ordinary copy of this order, duly authenticated by the Associate/Court Stenographer.

(S. RADHAKRISHNAN, J.)

(S.A. BOBDE, J.)